

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RICHARD LEE,)	
)	
Plaintiff,)	
vs.)	NO. CIV-12-0790-HE
)	
CAROLYN W. COLVIN, Commissioner)	
of the Social Security Administration,)	
)	
Defendant.)	

ORDER


Plaintiff Richard Lee filed this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his application for disability insurance benefits under the Social Security Act. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Suzanne Mitchell, who recommends that the Commissioner's decision be reversed and the matter remanded for further proceedings. The magistrate judge concluded the Administrative Law Judge erred at step three of the sequential evaluation by summarily concluding that plaintiff's impairments do not meet or equal an unidentified listing. Because she determined that the error was not harmless, the magistrate judge found that reversal is warranted.

The parties, having failed to object to the Report and Recommendation, waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Mitchell's Report and Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the

case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order.

IT IS SO ORDERED.

Dated this 5th day of June, 2013.



JOE HEATON
UNITED STATES DISTRICT JUDGE